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AZ CORP COMMISSION  
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**BEFORE THE ARIZONA CORPORATION COMMISSION**

IN THE MATTER OF THE APPLICATION  
OF ARIZONA WATER COMPANY, AN  
ARIZONA CORPORATION, FOR A  
DETERMINATION OF THE FAIR VALUE  
OF ITS UTILITY PLANT AND PROPERTY  
AND FOR ADJUSTMENTS TO ITS RATES  
AND CHARGES FOR UTILITY SERVICE  
FURNISHED BY ITS NORTHERN GROUP  
AND FOR CERTAIN RELATED  
APPROVALS.

DOCKET NO. W-01445A-12-0348

Arizona Corporation Commission

**DOCKETED**

OCT 25 2013

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**ARIZONA WATER COMPANY'S  
RESPONSE IN OPPOSITION TO RUCO'S APPLICATION  
FOR REHEARING OF DECISION NO. 74081**

Arizona Water Company, the Applicant in this rate proceeding, hereby responds in opposition to the Application for Rehearing of Decision No. 74081 filed by the Residential Utility Consumer Office ("RUCO") on October 11, 2013.

**I. THE COMMISSION ALREADY FULLY CONSIDERED EVERY ISSUE  
RAISED IN RUCO'S APPLICATION AND NO GROUNDS FOR  
REHEARING EXIST.**

RUCO argues that the Commission should grant rehearing in this matter based on RUCO's contention that the Commission wrongfully adopted a system improvement benefits ("SIB") mechanism in this docket and in Arizona Water Company's Eastern Group Rate proceeding (W-01445A-11-0310). RUCO argued that the SIB mechanism did

BRYAN CAVE LLP  
TWO NORTH CENTRAL AVENUE, SUITE 2200  
PHOENIX, ARIZONA 85004-4406  
(602) 364-7000

1 not qualify as an adjuster mechanism and that it should not be adopted for a variety of  
2 reasons throughout the hearing in this case and in post-hearing briefs (as well as  
3 throughout the Eastern Group docket). RUCO's rehearing application merely repeats  
4 those arguments, including the same but unavailing legal authority. RUCO presents no  
5 new grounds that Decision No. 74081 was "in any respect unjust or unwarranted, or should  
6 be changed, . . ." A.R.S. § 40-253(E). Accordingly, rehearing is inappropriate and  
7 RUCO's application should not be granted.

8 **II. THE COMMISSION PROPERLY DETERMINED THAT THE**  
9 **COMPROMISE ROE IT ADOPTED IN DECISION NO. 74081 WAS**  
10 **JUSTIFIED AND SHOULD NOT BE REDUCED IN EXCHANGE FOR ITS**  
11 **ADOPTING A SIB MECHANISM OR DECLINING USAGE ADJUSTMENT.**

12 RUCO asserts that the compromise 10 percent ROE, reached after significant  
13 settlement discussions including RUCO's input, is inappropriate in light of the adopted  
14 SIB Mechanism and the declining usage adjustment (p. 4, l. 14 – 19). To the contrary,  
15 Arizona Water Company and Commission Staff developed a thorough and well-supported  
16 evidentiary record demonstrating that the SIB mechanism, as well as the declining usage  
17 adjustment, address separate and distinct issues and should not be linked to a utility's  
18 ROE. *See* citations to the record from the testimony of Pauline Ahern, Joel Reiker and  
19 Stephen Olea, supporting exhibits and case law in Arizona Water Company's Post-Hearing  
20 Brief dated June 18, 2013 at pp. 15-22. The testimony and evidence these parties  
21 presented establish that the benefits of the SIB Mechanism and the declining usage  
22 adjustment become meaningful only to the extent that Arizona Water Company's actual  
23 Commission-determined cost of equity was reflected in its final rates, which is an issue  
24 RUCO completely fails to address in its application.

25 Reducing the ROE applied to *all* of the utility's rate base—the result RUCO seeks  
26 here—fundamentally conflicts with authorizing a SIB Mechanism that already includes a  
27 five percent Efficiency Credit to customers. Doing so would disincentivize investments to  
28 replace aging and failing infrastructure and discourage utilities from seeking a SIB  
Mechanism in the future and thereby defeat the Commission's stated purpose for adopting

1 the SIB Mechanism in the first place. Utilities Division Director Steve Olea specifically  
2 testified in the Eastern Group proceeding, which was incorporated by reference and  
3 considered by the Commission in this docket, that the Efficiency Credit built into the  
4 agreed SIB Mechanism was *not* negated by the ROE adopted by the Commission, and that  
5 a company's ROE should not be a consideration in choosing whether or not to institute a  
6 SIB Mechanism. (Eastern Group Phase 2 Transcript at p. 275, l. 23 – p. 276, l. 12). Staff  
7 testified against lowering the compromise ROE for Arizona Water Company with the  
8 adoption of the SIB Mechanism and declining usage adjustment in this case.

9 Documented evidence in the record also thoroughly supports the Commission's  
10 adoption of a declining usage adjustment in this case. *See* citations to the record from the  
11 testimony of Mr. Reiker, with supporting exhibits, showing recorded declines in customer  
12 usage and evidence from the Water Research Foundation and United States Environmental  
13 Protection Agency examining declining usage trends, as well as testimony of Mr. Olea that  
14 "Staff believes that there is a very high likelihood that AWC's customers will in fact use  
15 less water than in the test year" in Arizona Water Company's Post-Hearing Brief dated  
16 June 18, 2013 at pp. 12-15. RUCO presented no evidence in opposition to the adjustment  
17 and specifically has not sought rehearing on that adjustment in its application (p. 3, l. 6).  
18 Instead, RUCO argues, without reference to any specific adjustments that should be made  
19 or indeed to any evidence in the record whatsoever, that based on a smattering of other  
20 cases involving different systems, different risk profiles and different circumstances, that  
21 the adopted compromise 10 percent ROE is unreasonable in this case (p. 5, ll. 5-6). There  
22 is no evidence in this record of a nexus between the agreed declining usage adjustment the  
23 Commission adopted based on evidence showing recorded declining customer water use in  
24 this case and the appropriate ROE or investors' perception of risk for the Northern Group  
25 of systems. RUCO has failed to provide any evidence to build the necessary foundational  
26 bridge between the ROEs in its "Water Utility Decision Matrix" and the specific evidence  
27 and circumstances that the Commission thoroughly considered in this record—which  
28

1 specifically addressed the risk to investors related to Arizona Water Company's Northern  
2 Group of systems in the context of this rate application.

3 In summary, the record thoroughly supports both the Commission-authorized 10  
4 percent ROE and its adoption of a SIB Mechanism and declining usage adjustment in this  
5 docket. Rehearing should not be granted on this issue.

6 **III. THE SIB MECHANISM COMPLIES WITH ALL REQUIREMENTS OF**  
7 **ARIZONA LAW AND WAS PROPERLY ADOPTED.**

8 The Commission's authority to adopt a SIB Mechanism for Arizona Water  
9 Company in this case was also thoroughly briefed by the parties in their closing briefs,  
10 supported by the Commission's Legal Division, and should not be the subject of rehearing.  
11 The SIB Mechanism was not extraordinary ratemaking conducted outside the scope of  
12 general rate proceedings. Whether or not it is an "adjustment mechanism" is not relevant  
13 since it was adopted in a general rate case subject to full hearing, due process and a  
14 determination of fair value rate base.

15 The SIB Mechanism the Commission adopted in Decision No. 74081 complies in  
16 all respects with *Scates v. Ariz. Corp. Comm'n*, 118 Ariz. 531, 578 P.2d 612 (App. 1978)  
17 because it was adopted as part of Arizona Water Company's rate structure "in accordance  
18 with all statutory and constitutional requirements and, further, because [it was] designed to  
19 insure that, through an adoption of a set formula geared to a specific readily identifiable  
20 cost, the utility's profit or rate of return does not change." *Id.* at 535, 578 P.2d at 616. The  
21 SIB Mechanism adopted by the Commission was presented in a settlement agreement that  
22 was carefully vetted by Staff's counsel as well as legal counsel for the Company during  
23 painstaking give-and-take negotiations undertaken pursuant to the governing Procedural  
24 Order in this case. Arizona Water Company and Commission Staff thoroughly briefed  
25 these points in their post-hearing briefs. On the other hand, RUCO has raised no new  
26 arguments in its Application to justify rehearing. Accordingly, the SIB Mechanism  
27 adopted by the Commission in Decision No. 74081 is constitutionally permissible and  
28 consistent in every respect with Arizona law.

1  
2  
3 **IV. CONCLUSION.**

4 For the foregoing reasons, RUCO's application for rehearing of Decision No. 74081  
5 should be denied.

6 RESPECTFULLY SUBMITTED this 25<sup>th</sup> day of October, 2013.

7 BRYAN CAVE LLP

8  
9 By 

10 Steven A. Hirsch

11 Stanley B. Lutz

12 Two N. Central Avenue, Suite 2200

13 Phoenix, AZ 85004-4406

14 Attorneys for Arizona Water Company

15 ORIGINAL and 13 copies of the foregoing  
16 filed this 25<sup>th</sup> day of October, 2013, with:

17 Docket Control Division  
18 Arizona Corporation Commission  
19 1200 W. Washington Street  
20 Phoenix, AZ 85007

21 COPIES of the foregoing hand-delivered  
22 this 25<sup>th</sup> day of October, 2013, to:

23 Janice Alward, Chief Counsel  
24 Legal Division  
25 Arizona Corporation Commission  
26 1200 W. Washington Street  
27 Phoenix, AZ 85007

28 Steven M. Olea  
Director, Utilities Division  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, AZ 85007

1 Daniel W. Pozefsky, Chief Counsel  
2 Residential Utility Consumer Office  
3 1110 W. Washington Street, Suite 220  
Phoenix, AZ 85007

4 Arizona Reporting Service, Inc.  
5 2200 N. Central Avenue, Suite 502  
6 Phoenix, AZ 85004-1481

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